

GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Tribal Welfare Department – Appeal Petition filed by Sri.K.Adinarayana Achari S/o Ramalingaiah Achari, Section Supervisor, O/o G.M.T.O., Kurnool,– Filed under Section 7 of Act 16 of 1993, against the Proceedings of the District Collector, Kurnool, Dated: 29-7-2007 - Appeal Rejected – Orders –Issued.

SOCIAL WELFARE (CV.2) DEPARTMENT

G.O.Ms.No.165

Dated: 16.8.2008
Read the following:-

- 1.Proceedings of the Collector, Kurnool District R.Dis (C6) 1729/M/1996, Dated: 29-7-2007.
- 2.Appeal Petition filed by Sri. K.Adinarayana Achari S/o Ramalingaiah Achari, Section Supervisor, O/o G.M.T.O., Kurnool, before M(SW), Dated: 17-8-2007.
3. Memo No.5820/CV.2/2007-1, Dated: 6-9-2007.
4. From Collector, Kurnool District, Rc.C6/1172/M/2007, Dated:28-9-2007.
5. Memo No.5820/CV.2/2007-4, Dated: 17-6-2008.

ORDER:

Sri.K.Adinarayana Achari S/o Ramalingaiah Achari, has filed appeal petition before the Govt. against the Proceedings, dated 29.7.2007 issued by the District Collector, Kurnool, for cancellation of his ST “Kammara” Caste Certificate, and submitted the following grounds:

- (1) The order of the District Collector in canceling the community certificate issued by the Tahsildar, Pattikonda, (competent authority) on 10-10-1977 is contrary to law, weight of evidence and probabilities of the case.
 - (2) The District Collector, erred in coming to the conclusion that the appellant obtained the community Certificate fraudulently.
 - (3) The District Collector could not see that there is a saving clause i.e. Rule 21 of the Act, which says that, community certificate issued earlier to the commencement of the Act came into existence should be treated as valid.
 - (4) The District Collector failed to see that the appellant was enquired 3 times, each enquiry took about one decade and there are repeated enquiries which causes harassment to the appellant.
 - (5) The District Collector failed to see that any Act G.Os Rules are only prospective in effect, but not retrospective.
- 2) The Govt. vide Memo, 3rd read above, have requested the District Collector, Kurnool, to furnish remarks and connected records on the appeal petition filed by the appellant, and the same has been furnished by the District Collector, Kurnool, vide reference 4th read above.
- 3) The remarks of the District Collector, Kurnool, along with the grounds of the appellant has been examined and observed the following points:
- (1)The enquiry has been conducted as per the rules and as per Government instructions issued from time to time.

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- (2) The District Collector, has come to conclusion that the appellant obtained the community certificate fraudulently. The appellant himself confessed before the District Level Committee that he originally belongs to "Kammara" BC Community. The entire process has been done as per the Act and Government circulars.
 - (3) Several Notices were issued to the appellant directing him to appear before the Scrutiny Committee and the notices were received by him well in advance. He should have utilized the opportunity to represent the facts in person of his intention to gather the evidence in support of his claim. But he did not do so. He simply sent a letter by post which is not to clear in nature.
 - (4) The rules and regulations for cancellation of the caste certificate of the appellant where he himself confessed that he did not belong to "Kammara" (ST) Community and he belongs to BC (Kammara) Community. The "Kammara" tribe declared as ST in the Scheduled areas of East Godavari, West Godavari, Visakhapatnam and Vizayanagaram Districts have a distinct Social cultural and religious characteristics and that it has no relationship what so ever with Kammara caste not with standing the similarity in the name.
- 4) The case was posted for personal hearing on 20.11.2007. The appellant and his Counsel were present and requested for adjournment. Again when the case was posted on 27-3-08, both the Appellant and his Counsel were absent. Finally the case posted for hearing on 30-6-08. Both the appellant and counsel were present and argued the case, and submitted written arguments.
- 5) On careful examination of the grounds and written arguments filed by the appellant and his counsel, the Proceedings and the parawise remarks of the District Collector, Kurnool and the material on file, it is found that:
- (1) The Appellant himself admitted that after coming to know that Kammara caste in Kurnool District is not S.T. but is only BC-B, he obtained the caste certificates to his children under BC-B and also entered in their registers as BC-B. This clearly shows that he do not belong to Kammara ST. His contention that at the time of his studies in Schools he doesn't know whether Kammara caste comes under ST or not and that he also does not know that he was appointed under ST quota or not and he might have been selected as a meritorious candidate are not sustainable.
 - (2) The Contention that he was exonerated of the charges by the disciplinary authority of the Department is also not tenable irrespective of his ST status claim. On verification of the orders of the disciplinary authority it is found that the decision of exoneration of charges of the appellant was arrived at, because the enquiry report of the Social Welfare Dept. was not sent to the District Magistrate to take action. The enquiry Officer reported that charges were not conclusively proved and the prosecution side could not establish the charges with conclusion evidence, the appellant has claimed as belonging to Kammara and whether he belongs to Kammara tribe is not clear and benefit of doubt should be given to the Officials. Thus the Disciplinary authority has failed to decide the case in proper perspective.
 - (3) Being admitted that he belongs to Kammara (BC) and availed the benefit to employment under S.T. quota he has no validity to claim that repeated enquiries, amount to harassment.
 - (4) Action of the District Collector, Kurnool, in canceling the ST Community Certificate of the Appellant is entirely as per the provision of Act 16 of 1993 and Rules issued there under and the contention of the Appellant that his community certificate obtained prior to the promulgation of Act 16 and rules there under is valid as per Rule 21 is also not tenable because such certificates are valid unless they are cancelled under provisions of the Act and the Collector has cancelled the same as per provisions of the Act only.
 - (5) Accordingly the appeal is devoid of merits.

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5). Therefore, in view of the above facts, and in exercise of the powers conferred under Section 7(2) of Act 16 of 1993, under Rules made there under as per G.O.Ms.No.58, SW (J)Department, dated 12.5.1997, the appeal petition filed by Sri.K.Adinarayana Achari S/o Ramalingaiah Achari, employee in BSNL., Kurnool, is hereby rejected, upholding the Proceedings of the District Collector, Kurnool, R.Dis (C6) 1729/M/1996,Dated: 29-7-2007.

6). The records received from the District Collector, Kurnool, through the reference 4th read above, are returned herewith in original to him, and he is requested to acknowledge receipt of the same, immediately.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

V.NAGI REDDY,
PRINCIPAL SECRETARY TO GOVERNMENT

To

The Collector,Kurnool District (WE). Original record
File bearing No. R.Dis.(c6)1729/M/1996, containing pages
CF pages 252, & NF pages 38.

Sri.K.Adinarayana Achari,S/o Ramalingaiah Achari,
Section Supervisor (Operating),
O/o G.M. Telecom District
G.M.T.O., Kurnool,
Kurnool District.

Sri.R.Ramanjaneyulu, Advocate,
H.No.16-11-22/1/2-C,
Mooseram Bagh, Malakpet,Hyderabad.

The Director of Tribal Welfare Hyderabad
Copy to:
The PS to Minister, TW Riad.,/PS to Pri.Secretary (TW)
Sf/Sc.

//Forwarded::By Order//

SECTION OFFICER.